

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

MATTHEW SOUTER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:20-cv-1295 (TSE/JFA)
	)	
C.T. IRBY, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**DEFENDANTS' RULE 26(a)(3) DISCLOSURES**

COMES NOW the Defendants, C.T. Irby, Deputy Jacobs and Corporal McCauley (collectively "Defendants"), by their undersigned counsel, by and through their counsel, and submit the following pre-trial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(3) and the Scheduling Order entered in this case:

**I. Witnesses Whom Defendants Expects to Testify:**

1. C.T. Irby  
c/o Cook Craig & Francuzenko, PLLC  
3050 Chain Bridge Road, Suite 200  
Fairfax, VA 22030
2. Lucas Jacobs  
c/o Cook Craig & Francuzenko, PLLC  
3050 Chain Bridge Road, Suite 200  
Fairfax, VA 22030
3. Andrew McCauley  
4597 Gates Road  
Warrenton, VA 20187
4. Matthew Souter  
4597 Gates Road  
Warrenton, VA 20187

**II. Witnesses Whom Defendant May Call to Testify:**

5. Sherwood Franklin Prescott  
7353 John Marshall Hwy  
The Plains, VA 20198
6. Linda Whitner  
c/o ManorCare Health Services  
12475 Lee Jackson Memorial Hwy  
Fairfax, VA 22033  
(703) 728-6550 cell
7. Joseph Smallwood  
65 W Church St.  
Martinsville, VA 24112
8. Kristin O'Leary (UVA Hospital)  
2841 Hartland Rd  
Suite 401b  
Falls Church, VA 22043
9. Debbie Sprouse  
545 Ray C. Hunt  
3<sup>rd</sup> Floor Suite 316  
Charlottesville, VA 22903
10. Jennifer Dean  
545 Ray C. Hunt  
3<sup>rd</sup> Floor Suite 316  
Charlottesville, VA 22903
11. Custodian of Records  
Fauquier Health Physical Therapy and Rehabilitation (Fauquier Hospital)  
253 Veterans Dr.  
Warrenton, VA 20186
12. Custodian of Records  
University of Virginia Health System  
1215 Lee Street  
Charlottesville, VA 22908
13. Custodian of Records  
Fauquier Free Clinic, Inc.  
35 Rock Pointe Lane  
Warrenton, VA 20186

14. Custodian of Records  
Fauquier Health Physician Services  
550 Hospital Drive  
Warrenton, VA 20186

15. Defendant reserves the right to call any witnesses listed by Plaintiff.

16. Defendant reserves the right to call any impeachment or rebuttal witnesses.

17. Defendant reserves the right to object to portions of the testimony offered by any witness on this list.

18. Defendant reserves the right to supplement this list if any witnesses are discovered after the filing of this Witness list.

**III. Exhibits Which Defendant Expects to Offer into Evidence:**

**IV. Exhibits Which Defendant May Offer into Evidence:**

1. Text Messages between Plaintiff and “Berk Lee” (Plaintiff’s 1309 – 1322).
2. Text Messages between Plaintiff and “BJ Christian” (Plaintiff’s 1323 – 1331).
3. Text Messages between Plaintiff and “Bruce Irino” (Plaintiff’s 1336).
4. Text Messages between Plaintiff and “Des Walton” (Plaintiff’s 1337 – 1338).
5. Text Messages between Plaintiff and “Joe Statter” (Plaintiff’s 1339).
6. Text Messages between Plaintiff and “Kim Hume” (Plaintiff’s 1340 – 1341).
7. Text Messages between Plaintiff and “Marshall Lavinus” (Plaintiff’s 1342).
8. Text Messages between Plaintiff and “BJ Christian” (Plaintiff’s 1343).
9. Automatic Reply from Fox5tips to Plaintiff dated July 7, 2019 (Plaintiff’s 1360 – 1361).
10. Email from Plaintiff to Fox News dated July 7, 2019 (Plaintiff’s 1362 – 1363).
11. Email from Plaintiff to Jim Palermo Dated May 22, 2019 (Plaintiff’s 1364 – 1370).

12. Plaintiff's Facebook post dated July 10, 2019 (Plaintiff's 1380).
13. Plaintiff's Facebook post dated July 4, 2019 (Plaintiff's 1381).
14. Plaintiff's Facebook post dated May 16, 2019 (Plaintiff's 1385).
15. Plaintiff's Facebook post re: fund raiser (Plaintiff's 1391).
16. University of Virginia Health System Record – Visit Date 10/3/2019 (Plaintiff's 4059 – 4061).
17. University of Virginia Health System Record – Date of Service 1/2/2020 (Plaintiff's 4048 – 4051).
18. Fauquier Hospital Department of Physical Medicine and Rehabilitation Record – Date of Service July 2, 2019 (Plaintiff's 4287 – 4291).
19. Fauquier Free Clinic Record – 2/24/2021 (Plaintiff's 5021 – 5024).
20. Fauquier Free Clinic Record – 2/04/2021 (Plaintiff's 5048 – 5051).
21. Fauquier Free Clinic Record – 1/05/2021 (Plaintiff's 5060 – 5064).
22. Fauquier Free Clinic Record – 11/24/2020 (Plaintiff's 5105 – 5110).
23. Fauquier Health Physician Service – Encounter date 12/8/2020 (Plaintiff's 3000 – 3007).
24. Defendant reserves the right to use any impeachment or rebuttal Exhibits.
25. Defendant reserves the right to object to portions of the Exhibits that are contained on this Exhibit List.
26. Defendant reserves the right to amend this Exhibit List if any exhibits are subsequently discovered and/or prepared.

Respectfully Submitted,

/s/

Alexander Francuzenko, VSB #36510

Philip C. Krone, VSB #87723

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*Counsel for Defendant*

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 29th day of July 2021, I served a copy of the foregoing Defendants' Final Pre-Trial Disclosures upon the following via ECF:

Victor M. Glasberg, VSB 16184

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*Counsel for Defendant*